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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re L.C., a Person Coming Under the  
Juvenile Court Law.

SAN BERNARDINO COUNTY  
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

E072419

(Super.Ct.No. J273247)

OPINION

APPEAL from the Superior Court of San Bernardino County. Annemarie G.  
Pace, Judge. Affirmed.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Michelle D. Blakemore, County Counsel, and Dawn M. Martin, Deputy County  
Counsel, for Plaintiff and Respondent.

The juvenile court terminated defendant and appellant A.C.'s (Mother) parental rights as to L.C. (Minor, born 2017). On appeal, Mother contends the court abused its discretion by denying her request for a continuance. We affirm.

## I. FACTUAL AND PROCEDURAL HISTORY

On October 5, 2017, personnel from plaintiff and respondent, San Bernardino County Children and Family Services (CFS), received a referral alleging Mother had not visited Minor, who was born prematurely suffering from stage II necrotizing enterocolitis, in the neonatal intensive care unit. The referral also alleged Mother smoked marijuana around her son, I.W. (born 2011). The referral further alleged Mother had been placed on a psychiatric hold months earlier and appeared to be under the influence of controlled substances.

Staff at the Ronald McDonald House, where Mother had been living, reported that Mother and the maternal grandmother (MGM) smelled of marijuana when on the premises. The maternal grandfather (MGF) appeared to be either on methamphetamine or suffering its residual effects.

The MGM reported that Mother used marijuana and methamphetamine. She said Mother had been on a Welfare and Institutions Code section 5150<sup>1</sup> hold a few months earlier with a diagnosis of bipolar disorder. The MGM alleged Mother had been prescribed therapy and medication which she quit soon after her release. Mother had a

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

previous, substantiated referral for general neglect during which the maternal grandparents (MGPs) agreed to take legal custody of I.W., which they never did.

The social worker interviewed personnel from I.W.'s school who described an incident which occurred on December 6, 2016. Mother came to pick up I.W. and was told the MGF had already picked him up. Mother cursed and screamed at school staff. She appeared to be under the influence of drugs. Mother was asked to leave. When she refused, law enforcement was called; an officer handcuffed Mother and took her away. I.W.'s teacher reported that I.W. did not seem to receive enough food; he appeared dirty and had lice.

The social worker interviewed I.W. who said he had been living with the MGPs and Mother in a trailer for about two weeks. While there, he showered in a restroom which was located outside. I.W. said he did not always get enough to eat.

The social worker interviewed Mother who said she did not have provisions for Minor. Mother admitted smoking marijuana a few days earlier and using methamphetamine a few weeks earlier. Mother rejected the social worker's recommendation for inpatient substance abuse treatment saying she wanted to be "independent."

CFS personnel filed juvenile dependency petitions alleging Mother had a history of substance abuse (b-1), suffered from untreated mental illness (b-2), and failed to

provide for minors' basic needs (b-3 & b-5).<sup>2</sup> On October 13, 2017, the court detained minors.

In the jurisdiction and disposition report filed on November 1, 2017, the social worker reported that Mother admitted having a history of mental health issues; she reported being hospitalized for being suicidal one to two years earlier. Mother reported being diagnosed as bipolar for which she was prescribed medication; she stopped taking the medication because it made her feel sleepy. Mother reported a previous history of domestic violence in front of I.W. with his father.<sup>3</sup>

At the jurisdiction and disposition hearing on November 3, 2017, the parties agreed to the dismissal of the b-3 domestic violence allegation; the court dismissed it. The juvenile court found the remaining allegations true, found minors came within the court's jurisdiction, and ordered reunification services for Mother.

In the "Status Review Report" filed April 23, 2018, the social worker recommended the court terminate Mother's reunification services and set the section 366.26 hearing. Mother attended one counseling session but failed to continue her participation. Mother began an outpatient substance abuse program and parenting class but was terminated for inconsistent participation and positive drug tests. During the reporting period, Mother had three negative drug tests and two positive drug tests. She failed to show for seven other drug tests.

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<sup>2</sup> As to I.W., CFS personnel alleged Mother had a history of domestic violence (b-3).

<sup>3</sup> Neither father is a party.

The social worker rereferred Mother for inpatient substance abuse treatment in which Mother enrolled on February 12, 2018. However, on February 14, 2018, Mother walked out of the program. The social worker again referred Mother to the same program on February 20, 2018, but Mother failed to show for her intake appointment the next day.

The court had ordered supervised visits between Mother and minors to occur once a week for two hours. Mother missed several visits. When she visited, Mother was appropriate with minors and communicated well with I.W., but Minor did not appear to have a bond with Mother. Minor would often seek comfort from the foster parent. Mother said that when Minor cried, she preferred to give her to the foster parent because it gave Mother anxiety.

In an additional information for the court filed June 13, 2018, the social worker changed the recommendation to continued reunification services for Mother. At the hearing on June 28, 2018, the court informed Mother, “you’re getting this recommendation because of a technicality in the law. You’re not getting services because you’ve done anything significant to warrant me giving you continued services.”<sup>4</sup> The court granted Mother an additional six months of reunification services.

In the “Status Review Report” filed October 19, 2018, the social worker recommended the court terminate Mother’s reunification services and set the

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<sup>4</sup> Pursuant to section 361.5, subd. (a)(1)(A), a parent is entitled to at least 12 months of reunification services for a child who is three years of age or older when initially removed. I.W. was six years old when removed.

section 366.26 hearing. Mother failed to reenroll or participate in any services during the reporting period. Mother tested positive for amphetamines once and failed to show for four other tests. Mother was arrested on August 23, 2018, for vehicle theft, trespassing, disorderly conduct, and possession of a controlled substance. At the time of the report, she had an outstanding warrant.

Mother was given once weekly visitation for two hours; however, Mother's visitation was inconsistent, last occurring on August 16, 2018. Mother's visits were canceled on August 23, 2018, due to her incarceration, and had not been reinstated as the social worker had been unable to contact Mother.

Minors were in separate foster care placements. The MGPs' relative family assessment was still pending.

Mother failed to appear at the hearing on October 26, 2018. The court terminated Mother's reunification services and scheduled the section 366.26 hearing.

On November 8, 2018, Mother filed a notice of intent to file a petition for extraordinary writ. On December 5, 2018, Mother's counsel filed a no issue letter. We dismissed the case on the same day.

On February 22, 2019, the social worker filed the section 366.26 report in which she recommended the court terminate Mother's parental rights. During the reporting period Mother had only visited minors once, on December 27, 2018. The MGPs' home had not been approved as they were "living in a trailer home behind a friend's property." The kitchen had no running water and the trailer had no bathroom or sink. The MGPs

had been saying they were going to move into a new home since May 2018, but had not done so. The social worker recommended the court find minors appropriate for adoption.

On the same date, the MGPs filed a section 388 petition requesting placement of minors with them. The court denied the petition observing that the MGPs did not have a suitable home despite saying they would obtain one since May 2018.

Mother was not present at the section 366.26 hearing on February 25, 2018. The court noted that Minor was “in a concurrent planning home that she’s been in her whole life essentially.” The parties discussed moving forward with Minor. The Court noted that I.W. was not in a concurrent planning home and that relatives were attempting to be assessed for placement. Mother’s counsel requested the court continue the matter so the Mother could be present and minors could be placed together. The court effectively denied the request, terminating Mother’s parental rights as to Minor. The court set the section 366.26 hearing as to I.W. for June 11, 2019, granting the social worker authority to place him with appropriate relatives.

## II. DISCUSSION

Mother contends the court erred in denying her request for a continuance for the section 366.26 hearing both because it would have allowed her to be present and would have allowed additional time for the relative placement assessment to be approved, potentially allowing minors to be placed in the same relative home. CFS responds that Mother has no standing to challenge placement of minors and, regardless, the juvenile court acted appropriately in denying her request for a continuance. We hold that

regardless of whether Mother has standing to challenge the denial of her request to continue the hearing on placement grounds, the court acted within its discretion in denying the request.

“[S]ection 352, subdivision (a) provides that if it is not contrary to the interests of the minor child, a trial court may grant a continuance in a dependency case for good cause shown, for the period of time shown to be necessary, and further provides that when considering whether to grant a continuance the court ‘shall give substantial weight to a minor’s need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.’ The trial court’s ruling on whether a request for a continuance came within those guidelines is reviewed for abuse of discretion. [Citation.]” (*In re B.C.* (2011) 192 Cal.App.4th 129, 143-144 (*B.C.*)). “Courts have interpreted this policy to be an express discouragement of continuances. [Citation.]” (*In re Elijah V.* (2005) 127 Cal.App.4th 576, 585.) “ ‘To show abuse of discretion, the appellant must demonstrate the juvenile court exercised its discretion in an arbitrary, capricious or patently absurd manner that resulted in a miscarriage of justice.’ [Citation.]” (*In re Emily D.* (2015) 234 Cal.App.4th 438, 448.)

“The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely the child will be adopted.” (§ 366.26, subd. (c)(1).)



A biological parent has no standing to appeal relative placement preference issues.

(*Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1035.)

Here, Minor was placed in the current foster home upon her release from the hospital. At the time the court terminated Mother's parental rights to Minor, the dependency proceedings had occurred over the course of a year-and-a-half. The social worker recommended the court find the minors adoptable; no one argued otherwise. There was no documented visitation between Minor and the relatives seeking placement of her with them. Thus, the court's denial of the continuance request was in the interest of Minor's need for prompt resolution of her custody status. This is particularly so where there is no indication in the record that the proposed relative placement would have been approved. Moreover, even with Mother's parental rights terminated, the court could still place Minor with the proposed relatives.

Mother contends the "continuance requested in this case was relatively short." However, the continuance requested was from February 25, 2019, to June 11, 2019, nearly four months. Mother argues there "was no reason for the juvenile court to rush its decision"; however, the law requires "prompt resolution" of a minor's custody status. (*B.C., supra*, 192 Cal.App.4th at p. 144.) It was within the court's discretion to determine that a four-month continuance would not meet the requirement of prompt resolution of Minor's custody status.

### III. DISPOSITION

The judgment is affirmed.

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McKINSTER

Acting P. J.

We concur:

CODRINGTON

J.

MENETREZ

J.